

VERIFIED STATEMENT

OF

PATRICK L. PHIPPS

TELECOMMUNICATIONS DIVISION

OF THE

ILLINOIS COMMERCE COMMISSION

DOCKET NO. 00-0027

February 28, 2000

Staff

3-16-00 *CB*

PROCESSED FILE

00-0027

4

1 **Q. Please state your name and business address.**

2

3 A. My name is Patrick L. Phipps and my business address is 527 East Capitol Avenue,
4 P. O. Box 19280, Springfield, Illinois 62794-9280.

5

6 **Q. By whom are you employed and in what capacity?**

7

8 A. I am employed by the Illinois Commerce Commission as an Economic Analyst in the
9 Telecommunications Division.

10

11 **Q. Please describe your educational and occupational background.**

12

13 A. I graduated from Illinois College with a Bachelor of Science degree in Economics in
14 1997, and from the University of Illinois-Springfield with a Master of Arts in
15 Economics in 1999. I joined the Commission in August of 1997 as an intern in the
16 Rates Section of the Telecommunications Division, and have been employed as an
17 Economic Analyst since 1999. As part of my duties at the Commission, I have
18 analyzed retail and wholesale tariff filings of both competitive and non-competitive
19 telecommunications providers, and prepared written analysis of these filings for
20 review by the Commission. In addition, I have analyzed numerous
21 telecommunications certification cases to determine the financial, managerial, and

technical abilities of companies seeking approval to do business in the State of Illinois. I have also provided support to other Commission Staff and analyses of cost study issues in docketed cases that have rate implications.

Q. Have you provided testimony in any other docketed cases?

A. Yes. I provided expert witness testimony in Illinois Commerce Commission ("ICC" or "Commission") Docket 98-0866, the proposed reorganization between GTE Corporation and Bell Atlantic Corporation; ICC Docket 98-0860, the investigation into Ameritech Illinois ("Ameritech") reclassification of non-competitive services to competitive services; ICC Docket 99-0237, the proposed reorganization between Frontier Corporation and Global Crossing LTD.; ICC Docket 99-0525, the complaint of Ovation Communications, Inc. against Ameritech pertaining to special construction charges; and ICC Docket 99-0593, the investigation into whether Ameritech's special construction policies are discriminatory.

Q. What is the purpose of your verified statement in this proceeding?

A. The purpose of my verified statement in the instant proceeding is to address disputed Issue 2 of Focal Communications Corporation of Illinois ("Focal's") Petition for Arbitration. Specifically, I will address whether Focal should be compensated for

calls originating on Ameritech's network and delivered to an Internet Service Provider ("ISP") customer of Focal, and if so, at what rate. My verified statement pertains solely to ISP-related traffic; Staff Witness VanderLaan will address compensation for non-ISP related traffic.

Q. How will your verified statement be organized?

A. Section I will begin with a discussion of reciprocal compensation and how it applies to Issue 2 (ISP-bound traffic). This Section will also contain an explanation of the guidance provided by the FCC on this issue, including the authority the FCC has provided to the Commission to rule on this issue.

Section II will include an in-depth analysis of the positions taken by Focal and Ameritech in this docket as well as a recommendation on how Issue 2 should be resolved. The proposed resolution will include a recommended rate to be implemented for ISP-bound traffic as well as the reasoning behind that rate.

Section I

Q. As an initial matter, please explain the basis of reciprocal compensation.

63 A. The purpose of reciprocal compensation is to compensate a carrier for costs it
64 incurs in terminating traffic that originated on another carrier's network. "Reciprocal"
65 in this context means that a receiver of reciprocal compensation payments must
66 also make those payments to other carriers when its own end-users place calls that
67 terminate on another carrier's network. An ideal reciprocal compensation
68 mechanism would involve the originating carrier paying the terminating carrier
69 exactly the cost (no more, no less) the terminating carrier incurs in terminating that
70 traffic. For example, if two carriers terminate equivalent amounts of traffic on each
71 other's network and incur the same costs of terminating traffic, the carriers'
72 payments would be equal and negate each other.

73
74 **Q. Please briefly describe your understanding of Focal's and Ameritech's**
75 **position on Issue 2.**

76
77 A. Focal's position is that it incurs the same costs to terminate ISP-bound traffic
78 originating on Ameritech's network and routed over Focal's network ("ISP traffic") as
79 it does for terminating all other traffic. Focal argues it should be compensated for
80 these costs at the same rate it receives for non-ISP-bound local traffic originating on
81 Ameritech's network and routed to Focal end-users.¹ That rate is the tandem rate.²

¹ Focal's Petition for Arbitration, pg. 8.

² Compensation at a rate equal to the transport and termination of local traffic.

Ameritech, on the other hand, contends that the Commission lacks jurisdiction to decide Issue 2. Ameritech argues that the FCC has ruled that ISP traffic is not subject to reciprocal compensation under the 1996 Act because ISP traffic is jurisdictionally interstate; therefore, Focal's requested relief cannot be granted. However, if the Commission does, in fact, address inter-carrier compensation for ISP traffic, Ameritech argues that Focal's proposed rate (tandem rate) is not appropriate.³

Q. How has Focal previously been compensated for ISP traffic?

A. Ameritech has been paying the tandem rate to Focal for ISP-bound traffic originated by an Ameritech end user and routed to Focal-served ISPs pursuant to the parties' interconnection agreement.

Q. How has the treatment of this traffic come into question?

A. The interconnection agreement between Focal and Ameritech expired on October 28, 1999. In addition, the FCC released its "Declaratory Ruling in CC Docket No. 96-98 and Notice of Proposed Rulemaking in CC Docket 99-68" ("Declaratory Ruling") on February 26, 1999, in which it determined that traffic terminating to ISPs

³ Ameritech Illinois' Response to Focal's Petition for Arbitration, pg. 4.

102 is jurisdictionally interstate.⁴ Ameritech and Focal cannot agree on how traffic
103 terminated to ISPs should be treated for reciprocal compensation purposes.
104 Ameritech asserts that it should pay a zero rate (no compensation) for ISP traffic,
105 while Focal believes that Ameritech should continue to pay the tandem rate for the
106 traffic.

107
108 **Q. What authority has the Commission been granted by the FCC with regard to**
109 **compensation for ISP traffic?**

110
111 A. Contrary to Ameritech's assertions, the FCC's February 26, 1999, Declaratory
112 Ruling did not preempt this Commission's authority to set reciprocal compensation
113 (inter-carrier compensation) rates for ISP-bound traffic. The FCC has indeed ruled
114 that ISP calls are primarily interstate for jurisdictional purposes because calls to
115 ISPs do not terminate at the ISP server, but are a continuous transmission from the
116 end user to a distant Internet site [generally out of state].⁵ The FCC also has issued
117 a Notice of Proposed Rulemaking to develop a record to determine a permanent
118 inter-carrier compensation mechanism for ISP calls. In the interim, however, the
119 FCC explicitly provided that states can continue to treat ISP calls as local for

⁴ Declaratory Ruling at Para. 12.

⁵ *Id.* at Para. 13.

reciprocal compensation purposes.⁶ Reciprocal compensation for ISP-bound traffic can be established by state commissions when parties have not voluntarily agreed on an inter-carrier compensation mechanism⁷ (which is the case in the instant docket). Thus, the FCC's Declaratory Ruling has made it very clear that this Commission has the authority to decide whether reciprocal compensation should be applied to ISP traffic, until and unless the FCC promulgates rules otherwise. I note that in the Declaratory Ruling, the FCC suggested that ISP calls could be treated as local calls for reciprocal compensation purposes.⁸

Q. Has the FCC provided guidance as to when the tandem rate should apply to reciprocal compensation?

A. Yes. The FCC's Local Competition Order states that:

"... states may establish transport and termination rates in the arbitration process that vary according to whether the traffic is routed through a tandem switch or directly to the end-office switch. In such event, states shall also consider whether new technologies (e.g., fiber ring or wireless networks) perform functions similar to those performed by an incumbent LEC's tandem switch and thus, whether some or all calls terminating on the new entrant's network should be priced the same as the sum of transport and termination via the incumbent LEC's

⁶ "We find no reason to interfere with state commission findings as to whether reciprocal compensation provision of interconnection agreements apply to ISP-bound traffic, pending adoption of a rule establishing an appropriate interstate compensation mechanism." *Id.* at Para. 21.

⁷ "Even when parties to interconnection agreements do not voluntarily agree on an inter-carrier compensation mechanism for ISP-bound traffic, state commissions nonetheless may determine in their arbitration proceedings at this point that reciprocal compensation should be paid for this traffic." *Id.* at 25.

⁸ "[W]e note that our policy of treating ISP-bound traffic as local for purposes of interstate access charges would, if applied in the separate context of reciprocal compensation, suggest that such compensation is due for that traffic." *Id.* at Para. 25.

141 tandem switch. Where the interconnecting carrier's switch serves a
142 geographic area comparable to that served by the incumbent LEC's
143 tandem switch, the appropriate proxy for the interconnecting carrier's
144 additional costs is the LEC tandem interconnection rate."⁹
145

146 Thus, the FCC's language provides that a tandem interconnection rate
147 can apply to traffic terminated by CLECs even in cases where the CLEC does
148 not utilize a hierarchical tandem/end office switch network architecture like that
149 deployed by the incumbent LEC. CLECs are eligible for the tandem rate if the
150 competitive carrier's switch serves a geographical area comparable to the area
151 served by the incumbent LEC's tandem switch, and new transmission and/or
152 technologies perform functions similar to those performed by an incumbent
153 LEC's tandem switch.

154 **SECTION II**

155
156 **Q. Please elaborate on the positions taken by Ameritech and Focal in this**
157 **arbitration proceeding.**

158
159 A. Focal Witness Starkey contends that ISP-bound traffic should continue to be treated
160 as local for reciprocal compensation purposes and should be billed at the tandem
161 rate. Mr. Starkey's position is based on the premises that (a) Ameritech's end users
162 are the cost causers of the ISP traffic and (b) that ISP-bound traffic is functionally

⁹ Local Competition Order at Para. 1090. The underlined passage was codified by the FCC in 47 CFR

163 identical to non-ISP-bound local traffic. Therefore, ISP-bound traffic should be
164 treated like all other local traffic for reciprocal compensation purposes.

165 Ameritech Witnesses Panfil and Currie contend that (a) the ISP is the cost
166 causer for ISP traffic and that (b) the traffic is not functionally identical to local traffic
167 because of the substantially longer holding times for ISP calls. In addition, since the
168 traffic is interstate in nature, Ameritech avers that, reciprocal compensation should
169 not apply at all.

170
171 **Q. Does Focal incur costs for ISP-bound traffic originated on Ameritech's**
172 **network and terminated to an ISP served by Focal?**

173
174 **A.** Yes it does. I do not believe that either party has taken the position that Focal
175 incurs no costs in routing this traffic. Focal contends it incurs exactly the same cost
176 of terminating ISP traffic as it does to terminate other local calls. Although
177 Ameritech does not contest that Focal incurs costs, it does state that since
178 Ameritech's end-users are not the cost causers, it should not be responsible for
179 compensating Focal for this traffic. Finally, the FCC has acknowledged that CLECs
180 like Focal incur costs when terminating this traffic by allowing the states to
181 implement reciprocal compensation arrangements to recover these costs.

183 Q. Ameritech disputes Focal's argument, that ISP-bound traffic and non-ISP-
184 bound traffic are functionally identical. Do you agree with Focal's assertion?

185
186 A. No, I do not. There are several reasons that ISP traffic is distinguishable from local
187 traffic:

- 188 • The FCC has distinguished between ISP traffic and local traffic. As explained
189 above, the FCC has ruled that ISP traffic is jurisdictionally interstate, as
190 opposed to local traffic which is jurisdictionally intrastate. Thus, the FCC
191 draws a clear distinction between ISP traffic and local traffic.
- 192 • Holding Times: the holding times of ISP-bound calls are substantially longer,
193 on average, than local calls. Specifically, Ameritech has provided data
194 showing that the average local call is 3.3 minutes in duration,¹⁰ while an
195 average ISP-bound call is 26 minutes in duration.¹¹ Since Ameritech's
196 reciprocal compensation rates are constructed to reflect the average duration
197 of a local call, these rates are not properly designed to recover ISP calls.
198 Moreover, this problem is exacerbated when one considers that Ameritech
199 ultimately recovers these costs from its end-users via local calling rates
200 based on the customer's untimed local calling area, while paying Focal
201 reciprocal compensation on a per-minute of use basis. Therefore, when end
202 users remain on the Internet for a period of time that causes the reciprocal

¹⁰ Ameritech's response to Focal's data request #59.

203 compensation rates (paid from Ameritech to Focal) to be greater than the
204 local rates Ameritech charges its end-users, all else equal, Ameritech may be
205 unable to recover the cost of calls to ISPs. Therefore, contrary to Focal's
206 assertion, longer holding times that are associated with ISP-bound calls, as
207 opposed to local calls, causes differences in costs, and may prevent
208 Ameritech from recovering its costs through the cost recovery mechanism
209 currently in place. This issue will be discussed in further detail below.

- 210 • Focal incurs lower costs, on average, when routing ISP traffic as opposed to
211 terminating local traffic. Calls from Ameritech customers to a Focal residential
212 or small business customer are carried via local loops to the appropriate
213 location in Focal's serving area. In contrast, ISP-bound calls are routed to
214 the ISP, the majority of which currently are collocated in Focal's central
215 office.¹² Since ISP traffic can be routed to the ISP within the central office via
216 a simple cross-connect, Focal avoids the cost of carrying that traffic from the
217 office to the ultimate destination of the end-user (i.e., Focal avoids the costs
218 of the loops). Additionally, for ISPs that are not collocated at the Focal
219 Central Office, the cost is also lower, on average, because they are
220 interconnected via a high-capacity facility, with capabilities to handle large

¹¹ Ameritech's response to Focal's data request #61.

¹² For those ISPs not collocating in Focal's central office, they are connected to the switch via a cost-efficient, high-capacity facility such as a DS1, as opposed to the local loop of a typical residential or small business customer.

volumes of traffic at a relatively low-cost (as opposed to serving single end users via local loops).

- Focal's switch does not serve as a tandem switch for terminating ISP-bound traffic. This is illustrated by Attachment 1, which is a simplified diagram of the Focal/Ameritech network. As shown by this diagram, ISP traffic (or local traffic) originates at the Ameritech end user and is routed to the switch at Focal's Central Office. Local calls will be switched at Focal's Central Office and dispersed to divergent end-user locations via long loops (denoted by segments A and B of Attachment 1). However, ISP traffic is routed to essentially one location, the collocation area of the ISPs (denoted by C), or to the ISP's dedicated facility (denoted by D). Since the general purpose of a tandem is to aggregate traffic and disperse the traffic to many divergent end-user locations, when routing ISP traffic, Focal's switch does not serve as a tandem. Additionally, Focal originally received the tandem rate because it utilized long loops in place of the hierarchical tandem/end office switching architecture. Since Focal avoids these long loops when terminating ISP-bound traffic, it does not meet the standards necessary to receive the tandem rate as described in the FCC' Local Competition Order (see *infra*. Pg. 8). Although Focal may be eligible for the tandem rate for terminating local traffic, it is not appropriate to apply the tandem rate to ISP-bound traffic. Focal would be over-recovering its costs at the tandem rate, violating the basic

242 reciprocal compensation principle, that carriers should recover only their
243 costs for terminating traffic received from another carrier.

244 As the reasons stated above demonstrate, ISP calls are, in fact,
245 distinguishable from local calls and ought not to be treated identically for
246 reciprocal compensation purposes.

247

248 **Q. You previously observed that both Focal and Ameritech base their position on**
249 **who should be responsible for compensation of ISP traffic (i.e., who is the**
250 **cost causer). Do you agree with either party?**

251

252 **A. Not entirely. Although I agree to a certain extent with Focal, I do not advocate its**
253 **ultimate recommendation.**

254 Ameritech's Position

255 Ameritech's position is that, "Focal's costs [for routing ISP traffic] are
256 caused by the contractual relationship between the ISP on the Focal network
257 and the ISP's customer who assesses the Internet by dialing-up the ISP."¹³
258 Ameritech's argument is flawed. If Ameritech's logic is applied to another end-
259 user of Focal that receives calls, but does not generally place calls (i.e., a pizza
260 parlor), Ameritech would be stating that the pizza parlor should compensate
261 Focal for those calls, not Ameritech. Obviously, this is an unrealistic outcome.

¹³ Verified Statement of Robert G. Harris at 6.

262 The fact that a great majority of traffic associated with a certain customer is
263 inbound as opposed to outbound does not mean that Ameritech should not
264 provide compensation for this traffic. The fact remains that Focal incurs costs for
265 routing traffic that originates on Ameritech's network.

266

267 Focal's Position

268 Focal contends that Ameritech should be responsible for compensating
269 Focal for routing ISP traffic because the traffic originates on Ameritech's network,
270 similar to any other local call. Therefore, according to Focal, it should receive
271 reciprocal compensation payments from Ameritech just as it does for any other
272 local call (at the tandem rate). Although Focal is correct that it incurs costs for
273 ISP traffic that originates on Ameritech's network and, therefore, necessitates
274 compensation, the conclusion that Focal draws from this fact is incorrect. As will
275 be discussed in further detail below, Focal should not be compensated at the
276 tandem rate for this traffic.

277

278 **Q. In light of your conclusion stated above, should Ameritech continue to pay**
279 **reciprocal compensation rates for ISP traffic?**

280

281 **A. Ameritech should compensate Focal for terminating ISP-bound traffic originated on**
282 **its network. However, Focal's proposal of applying the tandem rate to ISP traffic**

should not be adopted. This rate does not reflect the cost Focal incurs in routing ISP traffic. It results in Focal over-recovering its costs, and is therefore not appropriate.

Q. Why will Focal over-recover its costs by receiving the tandem rate for terminating ISP traffic?

A. By receiving the tandem rate for terminating ISP-bound traffic, Focal will over-recover its costs because (a) its switch does not serve as a tandem when terminating this traffic and (b) the current reciprocal compensation rate is not constructed to properly account for the average holding times of ISP calls.

(a) As explained above, when terminating ISP-bound traffic, Focal's switch either routes the traffic to the collocating ISPs in its central office or to the non-collocating ISPs via dedicated, high-capacity facilities. In either instance, Focal avoids the long local loops that it has deployed in place of the tandem/end-office switching architecture. Since the use of its local loops was the reason that Focal was originally entitled to the tandem rate, it should not be applied to ISP-traffic.

(b) Although the reciprocal compensation rate paid by Ameritech to Focal for ISP traffic is a per minute charge, it is actually comprised of a set-up cost and a

304 duration cost. The set-up costs are those costs that are incurred on a per call
305 basis and are not sensitive to minutes of use. Duration costs, on the other
306 hand, are those costs that depend on the length of the call. Since the set-up
307 costs are one-time costs and are generally greater than the duration costs,
308 Ameritech has melded the set-up costs into a per-minute rate based on the
309 average duration of a local call (3.3 minutes) and combined that cost with the
310 duration costs. to arrive at a composite per-minute reciprocal compensation
311 rate. Therefore, when Ameritech pays reciprocal compensation rates on ISP
312 traffic, which have an average duration of 26 minutes, it is paying the set-up
313 cost more than seven times over. Thus, Ameritech is over-compensating
314 Focal for the cost of an ISP call when using the currently structured reciprocal
315 compensation rate.

316
317 **Q. If the tandem rate is not appropriate for your recommendation, what should**
318 **the rate be?**

319
320 **A.** Since Focal has not conducted a cost study and uses Ameritech's costs as proxies,
321 any rate proposed by any party (except for Ameritech's zero rate) will be an
322 estimation of Focal's actual costs. However, the proxy that should be used is one
323 that reflects, as accurately as possible, Focal's costs of routing ISP traffic.

325 **Q. What rate are you proposing for compensation of ISP traffic?**

326

327 A. I believe that a per-minute rate of \$0.001333 is the most accurate available proxy to
328 reflect Focal's costs of routing ISP traffic. This rate represents the End Office rate
329 adjusted to reflect the average holding times of calls to ISPs.

330

331 **Q. How is this rate more appropriate than other rates proposed by the parties in**
332 **this proceeding?**

333

334 A. Since it has been shown that Focal's switch acts more like an End Office for ISP
335 traffic rather than a tandem switch, the End Office rate I propose more closely
336 reflects Focal's true costs than the tandem rate proposed by Focal. Ameritech, on
337 the other hand, ultimately proposes a zero rate for ISP traffic. This is also
338 inappropriate because Focal clearly incurs costs associated with routing ISP traffic
339 originating on Ameritech's network, and should have the opportunity to recover
340 those costs.

341

342 **Q. Why are you proposing an adjusted End Office rate?**

343

344 A. As explained above, the reciprocal compensation rates of Ameritech are based on
345 the average holding time of a local call (3.3 minutes), while ISP calls, on average,

are 26 minutes in duration. Moreover, the set-up costs have been melded into the rate based on the 3.3 minute average local call, causing the rate to not reflect the costs that Focal incurs for ISP traffic. To more closely estimate this cost, the End Office rate needs to be adjusted to reflect the average ISP call of 26 minutes. The adjustment of this rate to reflect average holding time of an ISP call is shown on Attachment 2.

Q. This adjustment was criticized by Mr. Starkey as being “flawed for a number of reasons?”¹⁴ Please explain.

A. Mr. Starkey criticizes this adjustment for the following reasons:

- the adjustment assumes that there are two types of traffic, ISP and all other traffic.¹⁵ Although Mr. Starkey criticizes the adjustment because it assumes that ISP traffic is different than local traffic, it has been shown that these types of traffic are, in fact, different. Therefore, this criticism is without merit.
- the adjustment ignores characteristics of Internet bound traffic that might very well increase the per-minute-of-use costs associated with that traffic.¹⁶ Mr. Starkey also criticizes the fact that this adjustment did not revisit the original cost study utilized to determine this rate to capture all cost differences that would differ for an ISP call. Although Mr. Starkey may be correct in that

¹⁴ Verified Statement of Michael Starkey at 51.

366 revisiting the cost study may provide marginal improvements in estimating the
367 costs of routing ISP traffic, his assertion highlights the inconsistency in his
368 position. As previously stated, Focal's position, as explained by Mr. Starkey,
369 rests on the premise that ISP calls are functionally identical to non-ISP calls.
370 Yet, now he claims that there are differences in these two types of traffic that
371 should be reflected when adjusting the rate to reflect ISP traffic. Thus, Mr.
372 Starkey's criticism should not be considered.

373
374 **Q. Does your proposed rate mitigate concerns raised by Ameritech Witness**
375 **Harris?**¹⁷

376
377 A. Yes. Ameritech Witness Harris points out that requiring Ameritech Illinois to pay
378 reciprocal compensation on ISP traffic would subvert two major policy goals: (a)
379 incentives for competition in residential local telephone service and (b) incentives for
380 the deployment of advanced services (i.e., xDSL). Dr. Harris points out that, due to
381 the profitability of receiving reciprocal compensation for terminating the traffic of ISP
382 customers, CLECs (like Focal) will choose to serve ISPs at the expense of
383 residential competition. Although Dr. Harris is correct, in theory, the rate that I
384 propose mitigates this concern by more closely reflecting the actual costs that Focal
385 incurs in terminating this traffic. Since Focal will be able to recover its costs without

¹⁶ *Id.* at 51.

386 receiving extraordinary profits (as it would by receiving the tandem rate), Focal will
387 not have the incentive to pursue ISP customers instead of residential customers.

388 The rate that I propose will also mitigate Dr. Harris' concerns with regard to the
389 deployment of advanced services. Since my proposal will cause Focal's reciprocal
390 compensation revenue to more closely reflect its actual costs, it will be necessary for
391 it to pursue alternative sources of revenue, which may include offering advanced
392 services. However, what Dr. Harris fails to point out is that the deployment of
393 advanced services in Illinois depends heavily on Ameritech itself rather than CLECs.
394 The FCC released its Line Sharing Order on December 9, 1999.¹⁶ In this Order, the
395 FCC mandated the high-frequency portion of a loop as an unbundled network
396 element, for the purposes of a requesting carrier providing xDSL service to a
397 customer, while the incumbent LEC provides voice service on the low-frequency
398 portion of the same loop. The FCC states that: "it is clear that spectrum unbundling
399 is crucial for the deployment of broadband services to the mass consumer market."¹⁹
400 Therefore, the deployment of advanced services in Illinois will rely heavily on how
401 cooperative Ameritech is on providing line sharing to requesting carriers, and not on

¹⁶ *Id.* at 52.

¹⁷ Verified Statement of Dr. Robert G. Harris at 28.

¹⁸ Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98.

¹⁹ *Id.* at Para. 25.

the CLECs.²⁰ Therefore, Ameritech's "advanced services" argument is disingenuous.

Furthermore, my proposed rate allows Ameritech to recover its costs based on the current untimed local calling area rates. Since my proposed rate has been adjusted to reflect average holding times of ISP calls, Ameritech will be able to recover its reciprocal compensation costs from its end users' local calling rates. Thus, both Focal and Ameritech will recover their respective costs.

Q. To implement your recommended rate, would it be necessary to identify and measure ISP-bound traffic?

A. Yes, it would be necessary if the Commission adopts my recommended rate for ISP traffic and adopts a different rate for reciprocal compensation for local traffic (under Issue 1). ISP traffic would need to be identified and measured so that the adjusted End Office rate could be applied to the ISP traffic. Although Focal appears to claim that separating ISP traffic is impossible,²¹ it appears that it would, in fact, be quite possible with Focal's cooperation. Ameritech currently attempts to track ISP traffic routed to Focal through the following process:

²⁰ Through discussions with representatives of Covad Communications Company and Rhythms Links, Inc., Staff has discovered that requesting carriers are experiencing resistance from Ameritech in discussing and negotiating line sharing.

421 "Ameritech makes an originating recording on all calls and Ameritech
422 knows the called party number. Ameritech can and has developed reports that
423 identify the number of calls and minutes of use (MOU) that are delivered to
424 CLEC customers [ISPs] by the CLECs. Ameritech also performs studies in
425 which the parameters initially identified calls that are 40 minutes or more in
426 duration during a given weekday. After identifying those calls, a search is done
427 in the Internet to determine if any of the dialed telephone numbers could be
428 identified as dial in access numbers for Internet service providers. If they could
429 not be identified, calls were made to those numbers to determine if they were
430 dial in access lines. Once it is determined that these numbers are dial in access
431 numbers, a report is run to determine how many calls and MOU are being
432 transported just to those particular lines."²²
433
434
435

436 Ameritech's current method for identifying ISP traffic seems to be reasonable
437 and possible from a functional standpoint, and could be improved greatly with
438 cooperation from Focal. This cooperation would include: (a) Focal providing
439 Ameritech with each of the ISP dial-in access numbers that Focal is (or becomes)
440 aware of, (2) Focal requiring its ISP customers to state what lines are being used for
441 Internet purposes, and (c) any additional help that could be provided by Focal to
442 identify ISP calls to the best of its ability without placing an unreasonable burden or
443 cost on the Company. I believe that, with the parties' cooperation, the majority of
444 Focal's ISP traffic could be identified in an acceptably accurate and reliable manner.
445

²¹ In response to Staff data request JMG 2.01, Focal states: "Focal is not able to track traffic routed to Focal's switch, separated by ISP traffic versus non-ISP traffic..."

²² Ameritech's response to Focal data request 41.

446 **Q. If the Commission declines to adopt the adjusted End Office rate, would you**
447 **recommend that an unadjusted End Office rate be applied to ISP-bound**
448 **traffic?**

449

450 A. Although I believe that the adjusted End Office rate would be the most accurate
451 proxy for Focal's costs of terminating ISP-bound traffic, if the Commission declines
452 to adopt the adjusted End Office rate, it should, in the alternative, adopt the
453 unadjusted End Office rate. For the reasons discussed above, the unadjusted End
454 Office rate would be a significantly more accurate estimate of Focal's cost of
455 terminating ISP-bound traffic than the tandem rate. However, the unadjusted rate
456 would still be based on the average holding time of a local call (3.3 minutes) rather
457 than an average ISP call (26 minutes).

458

459 **Q. Should the Commission postpone its ruling on this issue until the FCC makes**
460 **a final determination as suggested by Ameritech Witness Harris?**²³

461

462 A. No. Since no party can foresee the FCC's ultimate decision pertaining to cost
463 recovery for ISP traffic, I do not recommend that the Commission postpone
464 judgement of this issue pending the FCC's decision. To the contrary, the FCC has

²³ Verified Statement of Robert G. Harris at 16.

465 expressly provided the states the authority to rule on this issue now, and since the
466 Commission is faced with this issue at this time, it should utilize its authority.

467

468 **Q. Briefly summarize your recommendation in the instant proceeding.**

469

470 A. I recommend that Ameritech pay a per minute rate of \$0.001333 for ISP-bound
471 traffic that originates on Ameritech and is routed to a Focal-served ISP. To facilitate
472 this recommendation, the parties should cooperate to the extent possible to identify
473 and measure ISP-bound traffic.

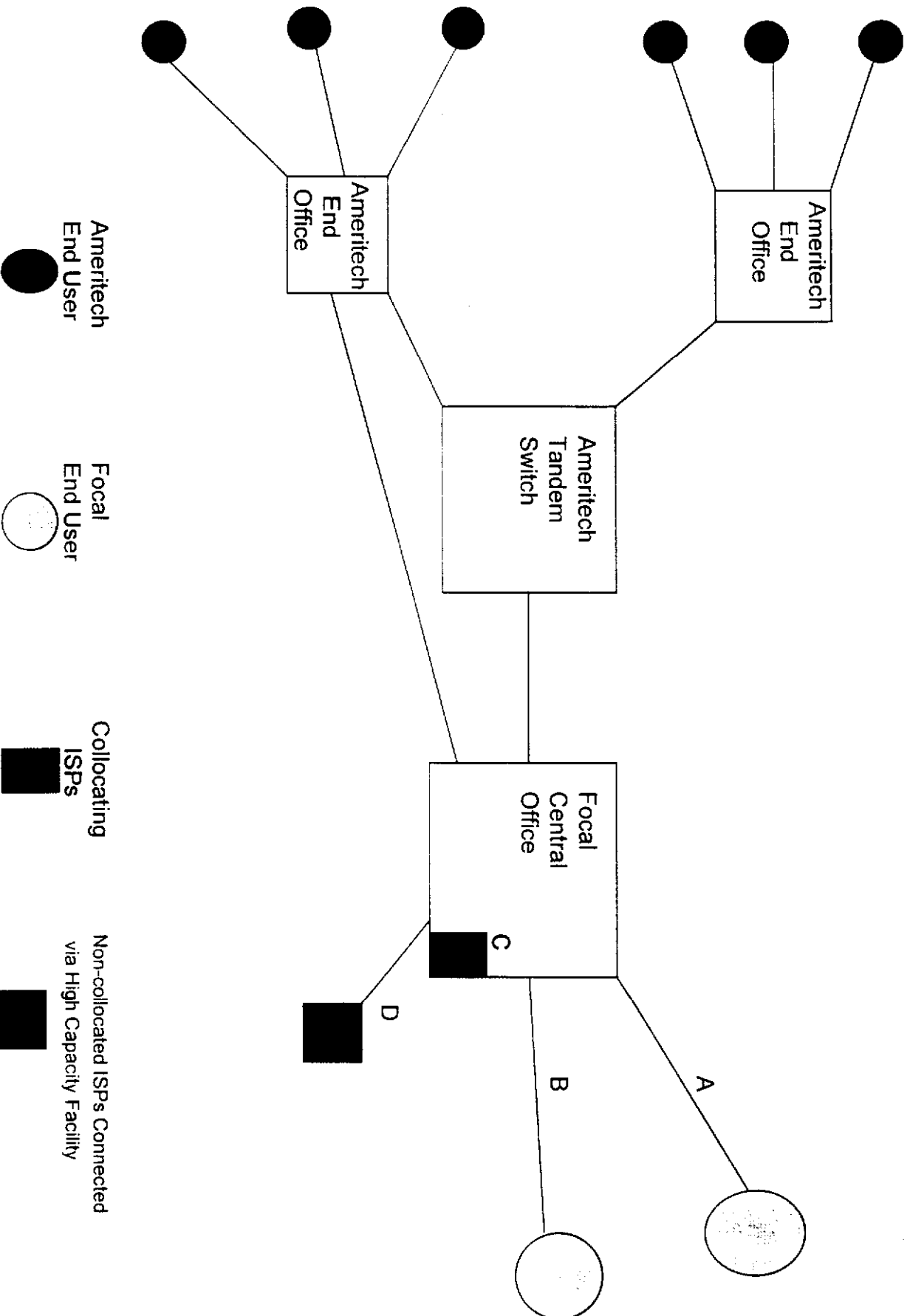
474

475 **Q. Does this conclude your testimony?**

476

477 A. Yes.

ATTACHMENT 1



ATTACHMENT 2

- End Office ("EO") Setup Cost Per Call \$0.009512.....NOTE 1
- EO Duration Cost Per Minute \$0.000967.....NOTE 1
- Adjusted EO Setup Cost Per Minute \$0.0003658.....NOTE 2
- **Adjusted EO Rate for ISP Traffic \$0.001333.....NOTE 3**

NOTE 1: *Source: Ameritech's Attachment to Focal's Data Requests #54-58.*

NOTE 2: The EO setup cost per call (0.009512) is adjusted to reflect the average duration of an ISP call (26). $[0.009512 / 26 = 0.0003658]$

NOTE 3: The adjusted EO cost per minute (0.0003658) is added to the EO duration cost per minute (0.000967) = 0.001333.

VERIFICATION

STATE OF ILLINOIS)

) SS

COUNTY OF SANGAMON)

I, Patrick L. Phipps, do on oath depose and state that if called as a witness herein, I would testify to the facts contained in the foregoing document based upon personal knowledge.

Patrick L. Phipps

SIGNED AND SWORN TO BEFORE ME THIS 28th DAY OF February ~~March~~ 2000.

Joyce Adcock
NOTARY PUBLIC

